



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO

**THE QUIKRETE COMPANIES, INC.
MARTINSVILLE FACILITY
Registration No. 30776**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and The Quikrete Companies, Inc., regarding the Quikrete facility in Martinsville, Virginia, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit(s) and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
3. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

6. "Facility" means the Quikrete aggregate products packaging facility located at 930 Meadowood Trail in Henry County, Virginia, which is owned and operated by Quikrete.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
9. "PCE" means a partial compliance evaluation by DEQ staff.
10. "Permit" means a New Source Review permit to operate a stationary source of air pollution, which was issued on July 28, 2008 under the Virginia Air Pollution Control Law and the Regulations to Quikrete for the Facility.
11. "Quikrete" means The Quikrete Companies, Inc., a corporation authorized to do business in Virginia. Quikrete is a "person" within the meaning of Va. Code § 10.1-1300.
12. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
13. "Va. Code" means the Code of Virginia (1950), as amended.
14. "VAC" means the Virginia Administrative Code.
15. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.
16. "VEE" means a Visible Emissions Evaluation, as determined by EPA Method 9 (*see* 40 CFR 60, Appendix A).

SECTION C: Findings of Fact and Conclusions of Law

1. Quikrete owns and operates the Facility, an aggregate products packaging facility in Henry County, Virginia.
2. The Facility is the subject of the Permit which authorizes Quikrete to operate a stationary source of air pollution. The Permit contains conditions and enumerates limitations on the air emissions from the Facility and includes monitoring and recordkeeping requirements. Equipment permitted at this facility includes a fluidbed cooler, a rotary dryer, cement, aggregate and utility storage silo vents, and aggregate mixing and bagging machines. The permit specifies fabric filters as emissions controls for the equipment listed above.

3. On November 5, 2015, Department staff conducted an EPA Method 9 Visible Emission Evaluation of the Facility for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, and the Regulations. Based on the inspection, Department staff made the following observations: An 18-minute VEE was conducted and the highest six-minute average was 59% opacity.
4. Condition 20 of the Permit requires that visible emissions from each fabric filter shall not exceed 5 percent opacity as determined by EPA Method 9.
5. 9 VAC 5-80-260(A)(1) states that "Pursuant to §10.1-1322 of the Code of Virginia, failure to comply with any condition of a permit shall be considered a violation of the Virginia Air Pollution Control Law."
6. Va. Code §10.1-1322 states that "Failure to comply with any condition of a permit shall be considered a violation of the chapter and investigations and enforcement actions may be pursued in the same manner as is done with regulations and orders of the Board under the provisions of this chapter."
7. On November 18, 2015, based on the November 5, 2015 VEE, the Department issued NOV No. ABRRO-000307 to Quikrete for the violations described in paragraph C(3) above.
8. On November 25, 2015 and December 16, 2015, Quikrete submitted written responses to the NOV. These responses, and subsequent responses, indicate that Quikrete has changed all of the 400 fabric filters at the facility and has performed other maintenance and improvements. Subsequent testing showed no leaks in the repaired control devices.
9. Based on the results of the November 5, 2015 VEE, the Board concludes that Quikrete has violated Permit condition 20, 9 VAC 5-80-260(A)(1), and Va. Code §10.1-1322 as described in paragraph C(3) above.
10. Quikrete has submitted documentation that verifies that the violations described in paragraph C(3) have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Quikrete, and Quikrete agrees to pay a civil charge of \$25,000.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control

Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Quikrete shall include its Federal Employer Identification Number (FEIN) 311683563 with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Quikrete shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Quikrete for good cause shown by Quikrete, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Quikrete admits the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusions of law in this Order.
4. Quikrete consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Quikrete declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Quikrete to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Quikrete shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Quikrete shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Quikrete shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

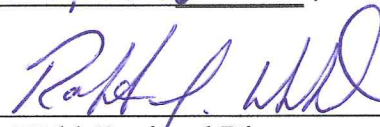
9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Quikrete. Nevertheless, Quikrete agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Quikrete has completed all of the requirements of the Order;
 - b. Quikrete petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

- c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Quikrete.

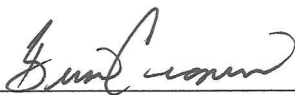
Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Quikrete from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. Any plans, reports, schedules or specifications attached hereto or submitted by Quikrete and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of Quikrete certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Quikrete to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Quikrete.
- 14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
- 15. By its signature below, Quikrete voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 22nd day of April, 2016.

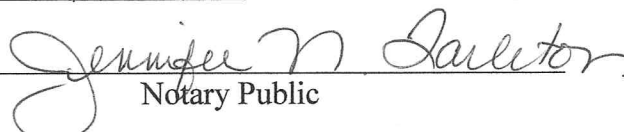

Robert J. Weld, Regional Director
Department of Environmental Quality

The Quikrete Companies, Inc. voluntarily agrees to the issuance of this Order.

Date: 3/30/16 By: 
The Quikrete Companies, Inc.

~~Commonwealth of Virginia~~
City/County of Union County, North Carolina

The foregoing document was signed and acknowledged before me this 30th day of March 2016, by Brian Cronin, who is Regional Vice President, on behalf of the corporation.


Notary Public

Registration No.

My commission expires: 9.14.2019

Notary seal:

